REMARKS

This responds to the Office Action mailed on August 12, 2005, and the references cited therewith.

No claims are amended, no claims are canceled, and claim 28 is added; as a result, claims 2-23, 25-26 and 28 are now pending in this application.

§102 Rejection of the Claims

Claims 5-7 were rejected under 35 U.S.C. § 102(b) for anticipation by Menand et al. (U.S. 5,539,920).

Menand is directed at a method and apparatus for receiving and processing an audio video interactive (AVI) signal (Menand, 1: 5-7), where the AVI signal from the broadcaster is broadcast in the form of a packet data stream, including a plurality of time multiplexed packet services (Menand, 1: 24-26). In Menand, one packet service carries a program guide and includes a predetermined service identifier. The data carried by the program guide packet service associates the components of an AVI program with the service identifiers of the packet services carrying those components. Using this data, the packet services carrying the components of the desired AVI program may be extracted from the packet stream. (Menand, 1: 43-50)

In operation, the transport mechanism in Menard carries a plurality of AVI signals, any one of which may be selected by the user for viewing. An interactive application program is carried by the data component of the AVI signal. (Menand, 4: 10-17 and 5: 21-27.) Thus, the AVI signals discussed in Menand are received from the broadcast location and have the purpose of providing the subject of the broadcast (i.e., video, audio and interactive application program information) to a viewer location.

It is submitted that AVI signals that provide *the subject of the broadcast* (e.g., broadcast programs or associated application programs) to a viewer location is different from signals that **control the broadcast** of broadcast programs. While Menand discloses the signals comprising broadcast data, Menand fails to disclose or suggest the "control signals that **control the broadcast of broadcast programs**," as recited in claims 5-7.

Thus, because the AVI signals disclosed in Menand are distinct from the "control signals" recited in claims 5-7, the features of claims 5-7 reciting utilizing the control signal for various purposes, such as "**determining from the control signals an interactive application associated with one of the broadcast programs**" and "**generating from the control signals, commands to maintain execution and termination of the interactive application in synchrony with either the display or the broadcast of the broadcast program**" are meaningless in the context of Menand, where the processing of an audio video and interactive signal is being performed with respect to the broadcast signal itself, at the viewer location (see Menand, Figs. 1 and the associated description).

Menand further discloses receiving packets including a signal to control execution of an AVI program. (Menand, 12: 15-22; 12: 46-62; 13: 15-45.) It is submitted that an operation of merely "*receiving*" a signal that may control execution of a program is different from an operation of "**generating**" a command to maintain execution and termination of an application. It is further submitted that Menand fails to disclose or suggest **generating a command** to maintain execution and termination of an application in general and "**generating from the control signals, commands to maintain execution and termination of the interactive application in synchrony with either the display or the broadcast of the broadcast program**" in particular, as recited in claims 5-7.

Thus, Menand fails to disclose or suggest "receiving control signals that **control the broadcast of broadcast programs,**" "**determining from the control signals an interactive application associated with one of the broadcast programs**" and "**generating from the control signals, commands to maintain execution and termination of the interactive application in synchrony with either the display or the broadcast of the broadcast program,**" as recited in claims 5-7.

Applicants point out that, in order to anticipate a claim, "[t]he identical invention must be *shown in as complete detail* as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989); MPEP § 2131. Further, "[a]nticipation requires the presence in a single prior reference disclosure of each and every element of the claimed invention, *arranged as in the claim.*" *Lindemann Maschinenfabrik GmbH v. American*

Hoist & Derrick Co., 730 F.2d 1452, 221 USPQ 481, 485 (Fed. Cir. 1984) (citing *Connell v. Sears, Roebuck & Co.*, 722 F.2d 1542, 220 USPQ 193 (Fed. Cir. 1983)) (emphasis added).

§103 Rejection of the Claims

Claims 2-4, 8-12, 16-19 and 25-26 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Menand et al. in view of Hendricks et al. (U.S. 6,160,989).

Claims 8, 10, 11 and 25 include the features of "receiving control signals that **control the broadcast of broadcast programs**," "**determining from the control signals an interactive application associated with one of the broadcast programs**" and "**generating from the control signals, commands to maintain execution and termination of the interactive application in synchrony with either the display or the broadcast of the broadcast program**." Claims 2-4, 9, 12 and 16-19 include these features by virtue of being dependent on claim 10. Claim 26 includes these features by virtue of being dependent on claim 25. As discussed above, with reference to claims 5-7, Menand fails to disclose or suggest these features.

Hendricks is directed at a controller for use with a digital cable headend capable of monitoring and controlling set top terminals in a television program delivery system. (Hendricks, Abstract.) Hendricks, whether considered separately or in combination with Menand, also fails to disclose the above-mentioned features.

Because the combination of Menand and Hendricks fails to disclose or suggest each and every element of claims 2-4, 9, 12 and 16-19, claims 2-4, 9, 12 and 16-19 are patentable in view of the Menand-Hendricks combination and should be allowed.

Claims 13-15 and 20-23 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Menand et al. in view of Hendricks et al. in further view of Blackketter et al. (U.S. 6,415,438).

Claims 13 and 14 include the features of "receiving control signals that **control the broadcast of broadcast programs**," "**determining from the control signals an interactive application associated with one of the broadcast programs**" and "**generating from the control signals, commands to maintain execution and termination of the interactive application in synchrony with either the display or the broadcast of the broadcast program** by virtue of being dependent on claim 10. Claims 15 and 20-23 also include these features. As

discussed above, the combination of Menand and Hendricks fail to disclose or suggest these features.

Blackketter is directed at an interactive television trigger that has a time attribute value that indicates a future time when the trigger is to be executed. (Blackketter, Abstract.) Blackketter, whether considered separately or in combination with Menand and Hendricks, also fails to disclose the abovementioned features.

Because the combination of Menand, Hendricks and Blackketter fails to disclose or suggest each and every element of claims 13-15 and 20-23, claims 13-15 and 20-23 are patentable in view of the Menand, Hendricks and Blackketter combination and should be allowed.

CONCLUSION

Applicants respectfully submit that the claims are in condition for allowance, and notification to that effect is earnestly requested. The Examiner is invited to telephone Applicants' attorney at 408-278-4052 to facilitate prosecution of this application.

If necessary, please charge any additional fees or credit overpayment to Deposit Account No. 19-0743.

Respectfully submitted,

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CERTIFICATE UNDER 37 CFR 1.8: The undersigned hereby certifies that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail, in an envelope addressed to: MS PETITION, Commissioner of Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on this 18 day of July, 2006.

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